

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

Claims 1, 6, 25, and 28 are amended presently. Claims 3 and 4 are cancelled. Support for the changes can be found, e.g., in Paragraphs [0030] - [0033].

Applicant thanks the Examiner for the brief telephone interview of Jan. 6, 2009.

With the foregoing amendments claims 1, 2, and 5-38 are pending in this application.

Rejection under 35 USC § 112, second paragraph

Claims 1, 2, 5, and 34-38 are rejected under 35 USC 112, 2nd paragraph, as being indefinite. Applicant particularly submits that the phraseology deemed incomplete and indefinite has, effectively, been eliminated from claim 1. Applicant submits that present claims 1, 2, and 5-27 are clear and definite and, thus, the rejection of such claims under 35 USC 112, 2nd paragraph, has been successfully overcome.

Rejections under 35 USC § 103(a)

Claims 1, 2, 5-26, and 28-33 are rejected under 35 USC § 103(a) as being unpatentable over Jones (US 2003/0213721) in view of Leblong (US 5,758,774) or Williams-Hartman (US 2004/0182738). Claims 1-7, 9-16, 18-23, 25, 26, and 28-23 are rejected under 35 USC § 102(e) as being anticipated by Paliotta et al. (US 6,659,280). Responsive thereto, Applicants have amended claims 1, 6, 25, and 28 and has cancelled claims 3 and 4. Applicant submits that present claims 1, 2, 5-26, and 28-33 are now in condition for allowance over Jones '721, Leblong '774, Williams-Hartman '738, or any of the other cited references, taken alone or in combination with one another.

Claim 1, in its current form, covers:

an adhesive coating formed on the tab panel and the corresponding tabs thereof; and

a release agent applied to said gate panel in the vicinity of at least one said gate to prevent adhesion thereof to the adhesive coating on a corresponding said tab.

Claim 6, in its current form, covers:

an adhesive coating formed on the tab panel and the corresponding tabs thereof; and

a release agent applied to the gate panel in the vicinity of at least one given gate to prevent adhesion thereof to the adhesive coating on a corresponding tab.

Claim 25, in its current form, covers:

an adhesive coating formed on the tab panel and the corresponding tabs thereof; and

a release agent applied to the gate panel in the vicinity of at least one given gate to prevent adhesion thereof to the adhesive coating on a corresponding tab; ...

Claim 28, in its current form, covers:

providing an adhesive coating on the tab panel and the at least one tab thereof; ...

applying a release agent to the gate panel in the vicinity of at least one given gate to prevent adhesion thereof to the adhesive coating on a corresponding tab; ...

Applicant submits that Jones '721 in view of Leblong '774, Williams-Hartman '738, or any of the other cited references, taken alone or in combination, teaches or suggests the subject matter of claims 1, 6, 25, and/or 28, as currently presented.

Jones '721 discloses a peel-away child resistant package 300, 400 (Figs. 1-4). The package includes two flaps 7 with a plurality of glue tabs 10 and peel away tabs 9, as per Paragraph [0015]. However, Jones '721 is completely silent regarding any sort of release agent being used in conjunction with such a package. Furthermore, the two tab-containing flaps have discretely positioned areas of glue thereon in order to allow the glue-free peel-away tabs thereof to function easily and not stick to a corresponding gate area. Thus, Jones '721 fails to anticipate or render obvious current claims 1, 6, 25, and/or 28.

Moreover, one of ordinary skill in the art would not have modified Jones '721 with Leblong '774, Williams-Hartman '738, or any of the other cited references in order to supply an adhesive coating on the peel away tabs of flaps 7 and then apply a release agent to regain that peel-away ability. First of all, such an adhesive coating would have eliminated the peel-away capability of such tabs and thus would have rendered Jones '721 unsatisfactory for an intended purpose thereof (MPEP §2143.01). Additionally, attempting to regain the peel-away capability by providing an additional release agent would have constituted a change in principle of operation of Jones '721 (MPEP §2143.01) by eliminating the discrete placement of glue on the tab flap thereof and by requiring a further step to achieve the desired peel-away ability. Thus, one of ordinary skill in the art at the time the invention was made would not have modified Jones '721 with Leblong '774, Williams-Hartman '738, or any of the other cited references under 35 USC §103(a) in order to arrive at the subject matter of claims 1, 6, 25, and 28, as currently provided.

Accordingly, Applicant submits that claims 1, 6, 25, and 28, as well as those claims depending therefrom, are now in condition for allowance over Jones '721, Leblong '774, Williams-Hartman '738, or any of the other cited references, taken alone or in combination, and thus respectfully requests the allowance of such claims.

Rejection under 35 USC § 103(a)

Claim 27 is rejected under 35 USC §103(a) as being unpatentable over the

references as applied to claim 25 above, and further in view of Boone (US 4,870,764). However, claim 27 depends from claim 25, which is in condition for allowance for the reasons set forth above. Thus, Applicant submits that claim 27 is also in condition for allowance, the allowance of which is hereby respectfully requested.

Conclusion

Applicants believe that the present application is in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If any fees are due in connection with the filing of this Amendment, including any excess claim fees, please charge the fees to 132512. If a fee is required for and extension of time under CFR § 1.136 that is not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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